

RESPONSE TO OFFICE COMMUNICATION
DATED SEPTEMBER 4, 2007

Appln. No. 10/671,646

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October 3, 2007

REMARKS

This is in response to the Office Communication dated September 4, 2007. Reconsideration is respectfully requested.

These remarks supplement the remarks in the Response dated July 9, 2007 and are directed to the rejection of Claims 1-6 as being unpatentable over Nomura in view of Hodak or Farrell under 37 USC 103(a). The Examiner indicated that Claims 7 and 8 were deemed free of the prior art.

In review of the claims, it was noted that an obvious error in antecedency existed in Claim 2. This has been corrected in this response.

The Examiner in the rejection under 35 USC 103(a) in the previous Office Action acknowledged that Nomura lacks a showing that a cover projects beyond the perimeter of the aperture and relies on Hodak (Figure 3) and Farrell (Figure 4) as showing what Nomura lacks.

As amended in the response dated July 9, 2007, Claim 1 specifies that the housing is movable along a vertical axis and that the housing has "a cover projecting beyond the perimeter of the aperture". The claim further requires that the cover comprises a sealing area in facing the surface. According to the claim, the sealing area is "configured to allow for free and unrestricted movement of the housing between said first and second position.

Claim 2 further specifies that the surface has a rib projecting upwardly therefrom towards the projecting surface portion, that the rib cooperates with a complementary groove in the projecting surface portion. The rib keeps water from entering the aperture when the housing is in the first

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position. The complementary groove is sized to receive said rib and thereby seal the aperture. This is not shown or suggested in Nomura, which shows a sliding plate 10 in the embodiment of Figure 2 or alternatively rubber seals 26 in the embodiment of Figure 4.

The Examiner's obviousness rejection relies on Hodak (Figure 3) and Farrell (Figure 4) and takes the position that it would have been obvious to the ordinary artisan to provide Nomura with the flanged arrangement of these two references. This rejection is respectfully traversed.

The Hodak patent, in all embodiments, discloses a swimming pool skimmer which is mounted on a vertical wall of the pool for the purpose of drawing off surface water and debris from the pool by means of a pump (not shown). A cover member 25 is vertically oriented so as to seal the opening 19 in the pool sidewall 18. The purpose of the cover is to close off the skimmer to prevent flow of water through it so as to prevent damage to the pipes and filtration equipment comprising the skimmer during the cold winter months when these elements could be otherwise damaged by freezing. The cover is placed on the wet side of the wet side of the pool. There is no structure that is attached to it that is movable laterally along a vertical axis between a first position beneath a surface and a second position projecting about the surface as is called for in Claim 1. Further, raised flange 40 which is secured to the vertical wall of the pool is not capable of functioning in a way that keeps water from entering the aperture, nor is it relatively dimensioned with respect to the recess in the cover in a way that allows for free, unrestricted movement of the housing between the first and second positions. Instead, if the parts were dimensioned relatively for free and unrestricted movement, the cover would

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be incapable of affecting the seal that is essential for protection of the skimmer parts that it is designed to protect.

Farrell is directed to the provision of an overflow hatch for a reaction vessel in which aqueous wood pulp is blended with a gas such as chlorine or oxygen. In such vessels, some pressure is desired in order to drive the gas into the solution, and a gaseous pocket is formed under the vessel top cap. The lid 34 is provided with a sealing arrangement comprising double O-ring seals. The primary seal 45 will eventually distort due to the pressure and chemical reaction with the gases at the top of the tank and the secondary seal then maintains the pressure. The cover is hingedly mounted, is not connected to a housing that moves relatively between first and second positions along the vertical axis as is called for in Claim 1.

It is submitted that combining either Hodak or Farrell with Nomura would not be obvious to one of ordinary skill in the art. The teachings of the secondary references are inconsistent with the language of Claim 1 and such a combination would not, without hindsight, lead to the invention claimed by applicants.

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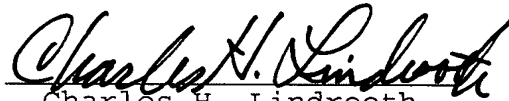
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For the foregoing reasons, together with the reasons set forth in the Response of July 9, 2007, it is respectfully requested that the rejection be withdrawn and that all claims be allowed in the absence of more pertinent art.

Respectfully submitted,

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